IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Appeal from Order No. 1185 of 2001
(Old No. 78 of 1981)

The United India Fire & General Insurance Co. Ltd
Allalhabad. ……..Appellant.

Versus

1. Smt. Hans Dei
   W/o Late Narain Singh
   R/o Village Karan Gaon, Pattai Bazar
   Post Office Kasol Gaon, Distt- Tehri Garwhal
   …….Plaintiffs/respondent.
2. Mela Ram, Manager and
   Prop. Punjab Lime Stone Co. Raja Road
   Dehradun.
3. Durbal S/o Kewal
   R/o Distt. Gorakhpur
   Driver of truck No. 2787 USK-C/o
   Punjab Lime Stone Co., Dehradun
   …..Defendant/respondent.

Shri Naresh Pant, learned counsel for the appellant.

Hon'ble Prafulla C. Pant, J.

This appeal, filed under Section 110-D of Motor Vehicles Act, 1939, is directed against the judgment and award dated 23.03.1978, passed by Motor Accident Claims Tribunal/District Judge, Dehradun, in Motor Accident Claim Case No. 11 of 1977, whereby an amount of Rs. 20,000/- has been awarded to the claimants, as amount of compensation with 6% interest thereon.

2. Brief facts of the case are that Narayan Singh (deceased) on 30.11.1976, was going on the left side of the road near Bhaniawala forest when suddenly at about 1:00 P.M. truck registration No. USK 2778, coming from the opposite direction, dashed at him.

Shri Narayan Singh, received injuries in the accident and died of the same. Hans Dei- widow of the deceased and other dependants of the deceased, filed claim petition for an amount of Rs. 50,000/-. The claim petition was opposed by the respondents-Insurance Company, owner and driver of the vehicle. The opposite party took a plea that deceased himself was negligently crossing the road when the accident occurred.

3. The tribunal framed following issues during the trial:-

1.(a) Whether the accident took place because of rash an negligent driving on the part of the driver of truck registration No. USK. 2778?

(b) Whether the accident took place due to the negligence of the deceased?

2. What loss and damage in terms of money has been caused to the heirs of the deceased-Narayan Singh?

3. Whether Sri Mela Ram, impleaded in the claim petition is not the owner of the truck in question?

4. To what relief, in any, the claimants are entitled?

4. After recording the evidence and hearing the parties, the tribunal came to the conclusion that Shri Narayan Singh died due to the rash and negligent driving on the part of the driver of truck registration

No. USK 2778. It further found that the claimants have suffered loss of the tune of Rs. 20,000/- for which the claim petition was allowed.

5. I heard learned counsel for the appellant.

6. Learned tribunal has considered the evidence of eye-witnesses- Amar Singh- P.W. 4 and Matbar Singh- P.W. 5 and rightly believed their statement as to the manner the accident has taken place. Their oral testimony is corroborated by the copy of First Information Report (Exh.-4) and copy of General Diary (Exh.-5). There is nothing to show on the record if the evidence adduced on behalf of the claimants was controverted on behalf of the respondent/appellant. The Medical and Post Mortem Report (Exh.-3) was also got proved by P.W. 1 – Dr. Lalit Mohan, as such there is nothing on the record, which makes this Court to disagree with the finding arrived at by the tribunal.

7. As to the amount of compensation, it is pertinent to mention here that it has come on the record that the deceased was an agriculturist and his notional income has been taken to Rs. 200/- per month in the year 1976, when the accident took place. Loss of dependency of the claimants has been reasonably assessed at Rs. 150/- per month. The age of the deceased was 33 years at the time of the accident. And as per the law prior to enforcement of

Motor Vehicles Act, 1988, the multiplier has been applied and a reasonable amount of Rs. 20,000/- has been assessed as loss of dependency by the tribunal. From no stretch of imagination, the said amount can be held to be unreasonable.

8. In the circumstances, the impugned judgment, passed by the tribunal, needs no interference. Accordingly, the appeal is liable to be dismissed. The appeal is dismissed. No order as to costs.

(Prafulla C. Pant, J.)

Dt: 29th March, 2006
Sweta